

10/722,346

IN THE DRAWINGS:

Please amend Figs. 25, 26A and 26B to include the legend "Prior Art". Replacement sheets incorporating the amendment are enclosed herewith.

REMARKS

I. Introduction

In response to the pending Office Action, Applicants have amended Figs. 25, 26A and 26B to include the legend "Prior Art". In addition, claim 12 has been amended into independent format, and claims 1 and 21-23 have been cancelled, without prejudice. Claims 2, 5, 6, 9-11, 13 and 15-20 have been amended to depend on claim 12.

It is noted that an Information Disclosure Statement was filed in this application on August 18, 2005. It is respectfully requested that the references cited therein be considered and that the PTO-1449 form submitted concurrently with the IDS be initialed and returned to the Applicants.

For the reasons set forth below, it is respectfully submitted that all pending claims are patentable over the cited prior art references.

II. The Rejection Of The Claims In View Of Pack

Claims 1-23 were rejected under 35 U.S.C. § 102 as being anticipated by USP Pub. No. 2004/0133369 to Pack. Applicants respectfully submit that claim 12, and the claims dependent thereon, are patentable over Pack for at least the following reasons.

As recited by claim 12, the method of inspecting the photomask includes the step of changing an accuracy condition depending on an increase or decrease in a pattern width. For example, as set forth in the specification, in case of a line and space pattern, it is desirable to use accuracy conditions considering a distance from the closest pattern to be set within a predetermined range or more when an error is made in such a direction as to increase the pattern width of the mask pattern. Alternatively, when the error is made in such a direction as to

decrease the pattern width, it is desirable to use the accuracy conditions considering the pattern width to be a predetermined width or more. The present invention, for example, allows for changing of the accuracy condition to accommodate both situations.

Turning to the cited prior art and the pending rejection, paragraph [233] of Pack is apparently relied upon as disclosing this aspect of the present invention. However, upon review of paragraph [233], it is clear that this paragraph of Pack does not disclose the foregoing feature of the present invention. Paragraph [233] of Pack simply states that the “context information” may be utilized to determine whether or not a given feature is critical or non-critical. Most importantly, there does not appear to be any disclosure regarding changing the acceptable accuracy criteria depending on an increase or decrease in a pattern width.

Accordingly, as anticipation under 35 U.S.C. § 102 requires that each element of the claim in issue be found, either expressly described or under principles of inherency, in a single prior art reference, *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983), for the foregoing reasons, it is clear that Pack does not anticipate claim 12, or any claim dependent thereon.

It is further noted that the priority date of the instant application (November 26, 2002) precedes the filing date of Pack (July 14, 2003). Moreover, while Pack claims priority to US Provisional Application No. 60/395,467, which has a filing date of July 12, 2002, this provisional application did not include Figs. 8A-8D, which is the subject matter relied upon to make the rejection of claim 12 in the pending Office Action. Applicants are in the process of preparing a certified translation of the priority document, which will be submitted upon completion, in order to remove the portions of Pack not supported by the provisional application as prior art to the instant application.

For all of the foregoing reasons, it is respectfully submitted that all pending claims are patentable over Pack.

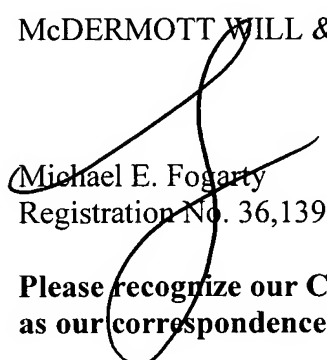
III. Conclusion

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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Date: November 16, 2005